

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bailey *Bu*

DATE: 12-13-79

FROM : R. P. Finzel *F/OTF*

SUBJECT: ROWE TASK FORCE

PURPOSE: To file as one serial the incoming and outgoing communications of various field offices regarding field office mail and files which were sent to the Bureau.

RECOMMENDATION: That the incoming and outgoing communications be filed as an enclosure to this memorandum.

APPROVED:

ST
 Director _____
 Exec. AD-Inv. _____
 Exec. AD-Adm. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *RP*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

DETAILS: Some field offices which had files or serials concerning Gary Thomas Rowe were advised to submit the information to the Bureau for review by the Rowe Task Force. Upon completion of the review, the files and mail were returned to the contributing field offices.

ENC. BEHIND FILE
ENCLOSURE

Enclosures (88)

(see ser's. 201 and 21841
 requesting material to be
 sent to the Bureau.)

- 1 - Mr. Bailey
- 1 -
- 1 - Mr. Finzel
- 1 - Mr. Perrine

62-118023-278

5 DEC 14 1979

4-STR

b6
b7C

TR:jml.
 (5)

62-118023

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ



53 DEC 18 1979

Airtel

11-19-79

To: SAC, Birmingham (157-341)
From: Director, FBI
Subject: ROWE TASK FORCE

per 270
Reurairtel 5-18-79, captioned "Task Force Reviewing FBI's Handling of Gary Thomas Rowe, Jr., and Civil Rights Division's Prosecution of U. S. v. Eaton, Et Al."

Enclosed for Birmingham are the following serials from your file number 157-341: 1 through 34, and serial 157-341-SF1-1.

Enclosures (35)

62-118023

1 - Mr. Perrine

DTP:jml
(4) *jml*

62-118023-279

2 DEC 13 1979

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
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Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

MAIL ROOM ☒

FBI/DOJ

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bailey

DATE: 2/19/80

FROM : D. T. Perrine

SUBJECT: ROWE TASK FORCE REPORT

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

PURPOSE: To advise of the telephonic contact this date by Mr. John Fleder, Task Force member and Departmental attorney, with SA Donald T. Perrine relative to the release of captioned report to the New York Times.

RECOMMENDATION: None. For information.

APPROVED:

Director _____
 Exec. AD-Inv. _____
 Exec. AD-Adm. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

DETAILS: In connection with the apparent premature release of the Task Force's report to the New York Times, as reported 2/17 and 2/18/80, Mr. John Fleder, Task Force member and current Department of Justice attorney, telephoned SA Donald T. Perrine at approximately 9:00 am 2/19/80 expressing dismay and chagrin to think that the report was reported prematurely both divulging the names of Agents and possibly informants. Fleder noted the promise of confidentiality entered into by the Task Force with certain of our former Special Agents, and wondered whether the FBI wanted to now alert these ex-Agents inasmuch as their confidentiality has been breached. Perrine opined that unless overruled by higher Bureau authority, the ex-Agents should be alerted by the Task Force which promised confidentiality. Fleder said he thought that was right and would take steps to do so. Fleder could offer no positive data as to where the report "leaked" from and was told by Perrine that the copies in possession of the FBI were accounted for.

62-118023-280
 FEB 28 1980

- 1 - [redacted]
- 1 - Mr. Boynton
- 1 - Mr. Mintz
- 1 - Mr. Bailey
- 1 - Mr. Perrine

SEE LEGAL COUNSEL DIVISION ADDENDUM DATED 2/22/80, PAGE 3

DTP: [initials]
 (6)

(CONTINUED - OVER)



Memorandum from Mr. Perrine to Mr. Bailey
RE: Rowe Task Force Report

This statement was based upon knowledge of the two copies delivered by the Task Force. One of the originals was forwarded to SA [] Legal Counsel Division, who made five copies thus creating seven copies in all in FBI possession. Currently, one copy is in file; [] has two copies; AUSA Salerno, Southern District of New York, has one copy; Mr. Joe Sher, Department of Justice, has one copy; Inspector [] has one copy; and [] has one copy; totaling seven. SA [] has determined this date that all indicated copies are accounted for.

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Perrine to Bailey Memorandum, 2/19/80
RE: ROWE TASK FORCE REPORT...

RAM
ADDENDUM, LEGAL COUNSEL DIVISION, RAM:jab, 2/22/80

On 2/19/80, SA [] Legal Counsel Division, inadvertently told Donald T. Perrine, Records Management Division, that he had made 5 copies of the Rowe Task Force Report. The correct figure is 6. The sixth copy was in the possession of [] CDRU-1, who handled the document production requests in the [] litigation. That copy was returned to SA [] who currently has 3 copies in his possession.

b6
b7C

APPROVED:

DTI
guf
Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
WCB

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bailey *WMB/US*

DATE: 3/5/80

FROM : *USO*

SUBJECT: ~~ROWE TASK FORCE~~

Gary Thomas Rowe

PURPOSE: To advise completion of the review concerning captioned task force report.

RECOMMENDATION: That further inquiries regarding the task force report be directed to Division 6, Terrorism Section.

APPROVED:

JWS

Director <i>WMB/US</i>	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Inv. _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. <i>WMB/USO</i>
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

OK

DETAILS: Captioned report was reviewed by Assistant Section Chief Donald T. Perrine, Division 4, and comments set forth in R. P. Finzel memorandum to Mr. Bailey dated 10/24/79 (copy attached). Further comments regarding task force questions may best be handled by the Terrorism Section, Division 6.

Enclosure | - ENCLOSURE

- DE-72*
- 1 -
 - 1 - Mr. Boynton
 - 1 - Mr. Otto
 - 1 - Mr. Mintz
 - (Attn:)
 - 1 - Mr. Mullen
 - 1 - Mr. Mignosa
 - (Attn:)
 - 1 - Mr. Bailey
 - 1 -
 - 1 -

RDD:dmj *dmj*
(10)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Exec AD Inv.	_____
Exec AD Adm.	_____
Exec AD LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____ <i>WMB</i>
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____ <i>WMB</i>
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

b6
b7C

62-118023-281

46-519

MAR 20 1980

b6
b7C



memorandum

DATE:

FEB 19 1980

REPLY TO
ATTN OF:

OPR

FEDERAL GOVERNMENT

SUBJECT:

Request for Criminal Investigation of Unauthorized
Disclosure of Rowe Task Force Report

TO:

Philip B. Heymann *Gary Thomas*
Assistant Attorney General
Criminal Division

FEDERAL GOVERNMENT

Attached are two articles from the New York Times dated February 17 and 18, respectively, that indicate an unauthorized disclosure of the Rowe Task Force Report may have occurred. This report was completed by a task force of four attorneys under the direction of this Office and copies had been forwarded to the Offices of the Attorney General, the Acting Deputy Attorney General, and the Director of the Federal Bureau of Investigation for their consideration.

Because we believe there may be violations of the criminal sanctions of the Privacy Act, as well as violations of Rule 6(e), Federal Rules of Criminal Procedure, it is requested that you initiate a criminal investigation of this apparent unauthorized disclosure. Since all members of this Office, as well as the Task Force members, had the capability of being the source of the unauthorized disclosure, I am recusing this Office from participation in any investigation. However, we will cooperate fully with any inquiry you may initiate.

Signed: *Michael E. Shaheen, Jr.*

Michael E. Shaheen, Jr., Counsel
Office of Professional Responsibility

cc: Attorney General
Director, FBI
Acting Deputy AG
Thomas Henderson

4-7-80
FEB 19 1980



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

PETER W. RODINO, JR. (N.J.), CHAIRMAN

CK BROOKS, TEX.
 HENRY W. KASTENMEIER, WIS.
 W. EDWARDS, CALIF.
 HEN CONYERS, JR., MICH.
 HEN F. SEIBERLING, OHIO
 GEORGE E. DANIELSON, CALIF.
 ROBERT F. ORINAN, MASS.
 JZABETH HOLTZMAN, N.Y.
 DWAMOND L. MAZZOLI, N.Y.
 WILLIAM J. DUNN, N.J.
 AM B. HALL, JR., TEX.
 AMAR JUDGER, N.C.
 ARLO L. VOLMER, MO.
 ERLBERT E. HARRIS II, VA.
 ILKE EYMAR, OKLA.
 ICKNAEL D. BARNES, MD.
 AN OLICKMAN, KANS.
 OS CARR, MICH.

ROBERT MCCLORY, ILL.
TOM RAILSBACK, ILL.
HAMILTON FISH, JR., N.Y.
M. CALDWELL BUTLER, VA.
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JOHN M. ASHBROOK, OHIO
HENRY J. HYDE, ILL.
THOMAS N. KINDNESS, OHIO
HAROLD S. SAWYER, MICH.
DAN LUNGREN, CALIF.
P. JAMES SENSENBRENNER, JR., WIS.

Committee on the Judiciary

House of Representatives

Washington, D.C. 20515

Telephones: 202-225-3951

GENERAL COUNSEL:
JOSEPH L. NELLIS

STAFF DIRECTOR:
GARNER J. CLINE

ASSOCIATE COUNSEL:
FRANKLIN G. POLK

Exec. Sec'y. _____
 Exec. Asst-Adm. _____
 Exec. AD-LES _____
 Asst. Dir. _____
 AD-Inv. Servs. _____
 Chief, Inv. _____
 Ident. _____
 Insp. _____
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 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgmt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. _____
 Int. Affs. _____
 Liaison & Int. _____

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 b7C

March 14, 1980

The Honorable Benjamin Civiletti
Attorney General of the United States
Department of Justice
Washington, D.C. 20530

Dear Attorney General Civiletti:

A few weeks ago I read with interest the press accounts of the Justice Department's internal report on the activities of Gary Thomas Rowe, Jr., former FBI informant in the Ku Klux Klan.

That report bears directly on the Subcommittee on Civil and Constitutional Rights' responsibilities in overseeing the FBI and in attempting to draft a charter that will provide for control and review of the activities of FBI informants. It also bears on the issue of the Department's ability to effectively monitor and control the more sensitive investigative activities of the Bureau -- an issue which is also at the heart of the charter debate.

I believe that this report would be invaluable to my Subcommittee and I would appreciate it if you would make it available to me as soon as possible, along with any information on what subsequent actions of policy changes the Department or the FBI has taken as a result of the information developed for the report.

I look forward to leaning from you at your earliest convenience.

Sincerely,

Don Edwards

Don Edwards 62-118023-
Chairman
Subcommittee on Civil and
Constitutional Rights 14

ES MAR 24 1980

NOT RECORDED
136 MAY 2 1920

DE: c11

cc: Honorable William H. Webster
Honorable Alan A. Parker

ORIGINAL FILED IN 62-116433-100

OFFICE OF DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

TO

OFFICIAL INDICATED BELOW

Mr. Colwell *OK* ()
 Mr. Boynton _____ ()
 Mr. Joseph _____ ()
 Mr. Bailey _____ ()
 Mr. Bayse _____ ()
 Mr. Cregar _____ ()
 Mr. Herndon _____ ()
 Mr. Joseph _____ ()
 Mr. Long _____ ()
 Mr. Mintz _____ ()
 Mr. Mullen *OK* ()
 Mr. Otto _____ ()
 Mr. Stames _____ ()
 Mr. Young _____ ()
 Quantico _____ ()
 _____ ()
 Mr. Hotis _____ ()
 Mr. Roin _____ ()
 _____ ()
 Tele. Room _____ ()
 Miss Devine _____ ()

please handle

See Me _____ ()
 Note and return _____ ()
 Prepare reply and return for my signature _____ ()
 Please Handle _____ ()
 Respond over your signature _____ ()
 Prepare memo for the Department _____ ()
 For your recommendation _____ ()
 What are the facts? _____ ()
 Hold _____ ()

Remarks: _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION**Memorandum**TO : Mr. Bailey *WBR*

DATE: 2/26/80

FROM : D. T. Perrine *DTP*SUBJECT: ROWE TASK FORCE

Exec AD Inv.	
Exec AD Adm.	
Exec AD LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	<i>WLB/RPA</i>
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

PURPOSE: To answer Judge Webster's questions raised over "St. Louis Post-Dispatch" editorial critical of FBI's handling of church bombings in civil rights matters during early 1960s.

SYNOPSIS: Rowe Task Force final "working" draft report 7/30/79 reportedly "leaked" to "New York Times," which published articles 2/17 and 2/18/80 generally critical of FBI's actions. Many newspapers wrote similar articles and editorials critical of the FBI based upon the "New York Times" account. Task Force summary does report Director Hoover overruling prosecution of church bombers and in detail set forth portions of FBI documents supporting this claim. Review of actual investigation shows Task Force "slanted" their findings as full record shows serious doubts as to prosecutive merit of case, and fact that supervisory agent prepared communication which was signed out by chain of command and not Mr. Hoover.

RECOMMENDATIONS: 1. For information *DE-45*

APPROVED: *V38*

Director *WLB*
Exec. AD-Inv. *B*
Exec. AD-Adm. *B*
Exec. AD-LES *B*

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. *WLB/RPA*

Tech. Servs. _____

Training _____

Public Affs. Off. _____

2. That in the future, areas of the Task Force report critical of the FBI be checked back to the original documents from which the Task Force drew its conclusions to determine the accuracy or justifiability of this criticism.

Enclosures

ENCLOSURE ATTACHED

- 1 - Mr. Boynton
- 1 - Mr. Otto
- 1 - Mr. Mintz (Attn: *[redacted]*)
- 1 - Mr. Mullen (Attn: *[redacted]*)
- 1 - Mr. Bailey
- 1 - Mr. Perrine

APPROVED: *WLB*Director *WLB*Exec. AD-Inv. *B*Exec. AD-Adm. *B*Exec. AD-LES *B*

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. *WLB/RPA*

Tech. Servs. _____

Training _____

Public Affs. Off. _____

MAY 16 1980

DTP:vmw

(8) 68 JUN 06 1980

(CONTINUED - OVER)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

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Memorandum from D. T. Perrine to Mr. Bailey
Re: Rowe Task Force

DETAILS: The Rowe Task Force, appointed by Attorney General Bell in November, 1978, completed its final "working" draft report 7/30/79 with two copies directed to the FBI. A shorter public version and report to Senate Judiciary Committee was being prepared by the Department and, reportedly due to the pressures incumbent upon Attorney General Civiletti, the final report has been delayed. On 2/17 and 2/18/80, the "New York Times" published a first page article indicating it had received a copy of the Task Force report and reported many of the findings of the Task Force critical of the FBI naming former agents and even possibly informants, both of whom in many instances were to be protected. Newspapers throughout the country repeated articles based on the "New York Times" account; one being the "St. Louis Post-Dispatch" editorial dated 2/19/80, which indicated Mr. Hoover sought to prevent prosecution of individuals responsible for church bombings and that should this be the case, those FBI personnel responsible should be prosecuted or disciplined. Judge Webster noted 2/22/80, "I am sure all concerned are gone, but I'd appreciate your checking the report and then the facts."

In the Summary of Findings section of the Rowe Task Force report on pages 7 and 8, the Task Force noted that FBI Birmingham urged that the evidence be presented to the Department of Justice, but Director Hoover overruled explaining "chance of successful prosecution . . . is very remote." As a result, "data remained in FBI files for ten years until the State of Alabama prosecuted Robert Chambliss in 1977." In the details of their report on pages 84-87, the Task Force sets forth portions of FBI documents, apparently the basis of their findings above, quoting from a 5/19/65 airtel to Birmingham disapproving of a proposed conference with U. S. Attorney and local authorities.

FBI files show the original Birmingham communication 2/9/65 of 3 pages recommended such discussions; however, FBIHQ note dated 2/10/65 indicated such discussions would be premature and would be considered only when sufficient evidence was developed. Mr. Hoover approved this note and a teletype response 2/10/65 was forwarded to Birmingham (see Attachments A and B). Further, Birmingham communication 5/13/65 consisting of 6 pages reiterated similar prosecutive presentations; however, Bureau airtel 5/19/65 again disapproved it requesting additional investigation to develop sufficient evidence. This airtel was prepared by supervisory case agent

Memorandum from D. T. Perrine to Mr. Bailey
Re: 'Rowe' Task Force

and approved by Assistant to the Director Belmont (see Attachments C and D). A thorough review of these communications shows routine FBI procedures were applied to this case, as any case, and premature presentations of evidence have always been a matter of concern in the FBI, particularly when dealing with cases of national impact. It would appear the Task Force interpreted these communications for its own purposes. The FBIHQ personnel involved at that time have since retired.

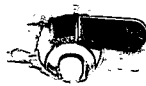
Birmingham news article 2/20/80 (see Attachment E) notes statement of current Assistant U. S. Attorney Melton L. Alexander [redacted]

Alexander is quoted as saying FBIHQ's position was valid and thought it was unlikely that the Task Force report had implied that Director Hoover tried to block prosecution of suspects in the bombing case. Further, it is to be noted in the Task Force report of historical background, pages 17-29, that on page 27 Director Hoover wrote a personal note to President Johnson on 4/10/64 assuring him the FBI knew the identities of the persons responsible for church bombings and other bombings; however, it had been impossible to secure either confessions or sufficient evidence necessary for prosecution. Consequently, the "New York Times" article triggered other articles quoting the Task Force report in many instances out of context, and in the final analysis on this one issue it would appear the Task Force did not report its own findings as clearly and accurately as it could from the nature of the documents they quoted.

As a result of the above, it would appear that in the future when points of issue in the Rowe Task Force report critical of the FBI are raised, an effort should be made to go back to the original FBI documents to verify the completeness and accuracy of the information on which the Task Force based its criticism.

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125



62-118023-282X
ENCLOSURE

A

2/10/65

GENERAL INVESTIGATIVE DIVISION

This is the case involving the bombing of the Sixteenth Street Baptist Church, Birmingham, 9/15/63, in which four Negro children were killed.

Birmingham being advised any discussion with the U. S. Attorney at this time would be premature and when we have effective witnesses ready and willing to testify in State and/or Federal Court, the matter will be taken up with the Department for a decision as to whether prosecution will be by Federal or State authorities.

WLM:pah

OK.
H

DECODED COPY

☐ AIRGRAM ☐ CABLEGRAM ☐ RADIO ☒ TELETYPE

Tolson _____
 Belmont _____
 Mohr _____
 DeLoach _____
 Casper _____
 Callahan _____
 Conrad _____
 Felt _____
 Gale _____
 Rosen _____
 Sullivan _____
 Tavel _____
 Trotter _____
 Tele. Room _____
 Holmes _____
 Gandy _____

10:13 PM CST URGENT 2-9-65 GDM
 TO DIRECTOR
 FROM BIRMINGHAM 092252

BAPBOMB. DAILY SUMMARY

[REDACTED] ADVISED [REDACTED]
 [REDACTED] REMARKED [REDACTED] "KNOWS"
 CHAMBLISS IS DEFINITELY INVOLVED IN CHURCH BOMBING IN SOME
 WAY. [REDACTED] DID NOT ELABORATE AT THAT
 TIME.

[REDACTED] CHAMBLISS REPORTEDLY ALSO SAID
 THERE HADN'T BEEN A BOMBING IN THIS AREA FOR YEARS THAT HE
 DID NOT KNOW ABOUT AND THAT HE KNEW ALL ABOUT THEM BEFORE
 THEY EXPLODED AS IT WAS HIS BUSINESS TO KNOW. CHAMBLISS RE-
 MARKED, "THE THREE THAT WENT OFF AT ONCE WAS A [REDACTED]
 [REDACTED] JOB" AND THAT HE, CHAMBLISS, FURNISHED THE DYNAMITE
 FOR THE EXPLOSIONS. (THIS APPARENTLY WOULD BE THE 3 BOMBINGS
 OCCURRING ON NIGHT OF MARCH 24 - 25, 1949, WHEREIN 3 SEPARATE
 UNOCCUPIED DWELLING HOUSES, LOCATED AT FIRST STREET AND
 11TH AVENUE WEST, BEING RENOVATED FOR FUTURE NEGRO OCCUPANCY,

REC-16

FEB 12 1965

FEB 23 1965

DECODED COPY

☐ AIRGRAM ☐ CABLEGRAM ☐ RADIO ☐ TELETYPE

Tolson _____
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 Callahan _____
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 Rosen _____
 Sullivan _____
 Tavel _____
 Trotter _____
 Tele. Room _____
 Holmes _____
 Gandy _____

PAGE TWO

FROM BIRMINGHAM 092252

WERE TOTALLY DESTROYED BY 3 BLASTS OCCURRING ABOUT ONE MINUTE
 APART.) [REDACTED]

b2
 b6
 b7C
 b7D

[REDACTED] USING THIS TECHNIQUE, THE BIRMINGHAM
 OFFICE HAS SLOWLY BUT PROGRESSIVELY OBTAINED ADDITIONAL PER-
 TINENT INFORMATION.

[REDACTED] AGENT TO
 WHOM INSTANT MATTER ASSIGNED, WHO IS ALSO HANDLING CONTACTS
 WITH [REDACTED] IS OF FIRM OPINION THIS ASPECT OF INVESTIGAT-
 ION MUST BE HANDLED CAREFULLY AND DELICATELY AND THAT [REDACTED]
 [REDACTED] SHOULD NOT BE PRESSED FOR A FIRM
 COMMITMENT RE THEIR FUTURE TESTIMONY AT THIS TIME. IT IS
 DEFINITELY BELIEVED THAT ALL WILL VOLUNTEER TO TESTIFY AGAINST

b2
 b6
 b7C
 b7D

DECODED COPY

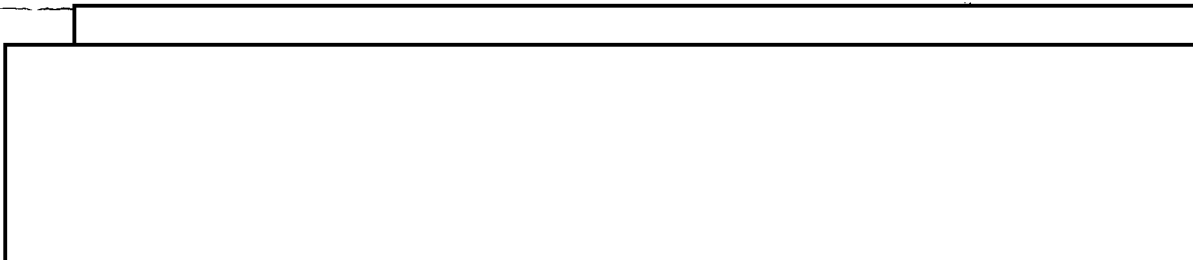
☐ AIRGRAM ☐ CABLEGRAM ☐ RADIO ☒ TELETYPE

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 Tavel _____
 Trotter _____
 Tele. Room _____
 Holmes _____
 Gandy _____

PAGE THREE

FROM BIRMINGHAM 092252

SUSPECTS THIS MATTER IN A LOCAL PROSECUTION FOR FIRST DEGREE MURDER WHERE THERE IS STRONG LIKELIHOOD OF THE IMPOSITION OF THE DEATH PENALTY OR SUBSTANTIAL PRISON SENTENCES. IT IS NOT BELIEVED THEY WILL AGREE TO TESTIFY UNDER ANY CIRCUMSTANCES AT A TRIAL INVOLVING A FEDERAL CIVIL RIGHTS VIOLATION WHERE, EVEN IF CONVICTIONS WERE OBTAINED, ONLY RELATIVELY SHORT PRISON SENTENCES COULD BE IMPOSED.



b6
 b7C
 b7D

USA MACON L. WEAVER AND HIS CHIEF ASSISTANT, AUSA R. MACEY TAYLOR, WHILE GENERALLY COGNIZANT OF SOME KNOWLEDGE OF THIS CASE, HAVE NOT BEEN INFORMED OF IDENTITIES OF EACH SUSPECT, NOR ARE THEY AWARE OF THE EVIDENCE DEVELOPED TO DATE. BUREAU AUTHORITY IS REQUESTED FOR SAC, BIRMINGHAM, AND AGENT HANDLING INSTANT CASE TO HOLD INFORMAL TYPE DISCUSSION WITH WEAVER AND TAYLOR WITHOUT DISCLOSING IDENTITIES OF WITNESSES AND SOURCES IN ORDER THAT FULL APPRECIATION OF THE PROSECUTIVE PROBLEMS INVOLVED ARE KNOWN SO THAT SOLUTIONS OR ALTERNATIVE COURSES OF ACTION MAY BE KEPT UNDER ACTIVE CONSIDERATION.

RECEIVED 11:39 PM EGH

B

2/10/65

CODE

1 -

b6
b7C

Teletype
~~RADIOGRAM~~

DEFERRED

IF NEXT RADIO CONTACT
MISSED SEND BY CODED
DEFERRED TELETYPE.

TO SAC BIRMINGHAM (157-352)

FROM DIRECTOR FBI (157-1025)

BAPBOMB.

REURTEL FEBRUARY NINE NINETEEN SIXTY FIVE.

ANY DISCUSSION WITH U. S. ATTORNEY AT THIS TIME APPEARS
TO BE PREMATURE, AND WHEN WE HAVE EFFECTIVE WITNESSES READY
AND WILLING TO TESTIFY IN STATE AND/OR FEDERAL COURT THE
MATTER WILL BE TAKEN UP WITH THE DEPARTMENT FOR DECISION AS
TO WHETHER PROSECUTION WILL BE BY FEDERAL OR STATE
AUTHORITIES. CONTINUE TO EXPLOIT POSSIBILITIES

AS WITNESS.

RBL/dec
(3) *dec*

VIA TELETYPE
FEB 10 1965
4:21 PM SXC
ENCIPHERED

NR. 101940
ENC. *BKM*
CK *W*
AM FOR *W*
TYPED BY
LOGGED BY

b6
b7C
b7D

NOTE:

This is the case involving the bombing of the 16th
Street Baptist Church.

no positive information at this time but sooner or later
Chambliss will make admissions about his implication in
various bombings. Birmingham wanted to discuss the possibilities
of testifying in state court
This is premature.

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REC-139K

FEB 11 1965

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UNITED STATES GOVERNMENT

Memorandum

TO : Director, FBI (157-1025)

FROM : SAC, Birmingham (157-352) (P)

SUBJECT: BAPBOMB

DATE: 5/13/65

2 Copies made by
for review by Rowe Task Force
Date 5-19-65

As the Bureau is aware, this case has received continuous and intensive investigative attention by the Birmingham Office since 9/15/63, a period of approximately twenty months. No avenue of investigative activity has been overlooked and investigation looking toward the identification and location of witnesses, development of sources and informants, a program of interviewing suspects, and technical and physical coverage of suspects have been emphasized.

As a result, it is apparent that the bombing was the handiwork of former Klansmen, ROBERT E. CHAMBLISS, BOBBY FRANK CHERRY, HERMAN FRANK CASH, THOMAS E. BLANTON, JR. and probably [redacted] although there is no evidence of a positive nature directly connecting [redacted] to the bombing. Information leading to this conclusion can be supported by admissible evidence as illustrated in summary below:

(1) [redacted] can testify that on Saturday, 9/14/63, CHAMBLISS remarked that the Negroes had been begging to integrate, but after Sunday they would be begging to segregate. He further made statements indicative of his hatred of and disposition to violence toward the pastor of the Sixteenth Street Baptist Church and the activities centering about the church during the Summer.

(2) This informant could testify that on the night and early morning of 9/14-15/63, TOMMY BLANTON, JR., HERMAN FRANK CASH, BOBBY FRANK CHERRY and ROBERT E. CHAMBLISS were observed together in BLANTON's car; further, that these four were observed in the vicinity of the rear of the church at 2:15 A.M., Sunday morning, 9/15/63, and that one of the group, probably CHERRY, was observed walking toward the church carrying something in his hand.

- ② - Bureau (RM)
- 2 - Birmingham
- MLA:hss
- (4)

REC 44

157-1025-1411
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(Note: The foregoing information can be corroborated by the testimony of [redacted] and can be corroborated, in part, by [redacted] now residing at [redacted]

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(3) [redacted] can testify that on Sunday, 9/15/63, following the church bombing, ROBERT E. CHAMBLISS stated, "They were warned----they would not listen----we had to show them we meant business." "More than that will have to be killed We have plans for blowing up blocks at a time." "I don't have to do it myself. I can give orders and have it done." "We have broken away from the old Klan----" "We are getting new men who want real action----" [redacted]

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(4) [redacted] can testify as to statements made by TOMMY BLANTON, JR., to the effect, "We made the bomb at CHERRY's house." "Dynamite was used" in the bomb....."When I bomb my next church....."

It is appreciated that the statements above are not confessions, but taken in context and viewed in the frame of reference of the conversations in which these statements were made; and if offered for admission in evidence in the proper evidentiary order following the establishment of the corpus delicti, along with eyewitness observations referred to above, the remarks constitute admissible evidence in the sense that they are voluntary out of court admissions against interest.

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[redacted] is willing to testify to the statements made in his presence by BLANTON, JR.

[redacted] is desirous of having this matter brought to trial and will, in all probability, testify at a murder trial prosecuted by local authorities where the likelihood of convictions being returned and substantial sentences being imposed is so much greater than in a Federal Civil Rights prosecution as to render the latter a remote improbability.

In this connection, it is apparent that no prosecutable violation of pertinent Federal Statutes, such as 18 USC 241 and 18 USC 837 (Civil Rights Act, 1960) can be established. In this light, the dismissal of Federal indictments in the PENVIC and MIBURN cases has been taken into consideration.

It is noted that at this point no evidence is available to prove the following:

- (1) Method of detonation or amount and type of explosive used.
- (2) Who made the bomb, or who planned and/or ordered the bombing.
- (3) What transpired between 2:15 A.M. and approximately 10:20 A.M., 9/15/63.

Current investigation consists primarily of interviews on a selective basis of principal suspects, surveillances and spot check physical coverage of suspects, and the continued utilization and operation of [redacted] [redacted] the latter, primarily, to obtain further and more pertinent extrajudicial admissions or statements from subjects. [redacted]

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[redacted] As the Bureau undoubtedly will recognize, this particular aspect of investigation is not of the nature conducive to the fixing of a "deadline." It is a sensitive undertaking, necessitating the direction of efforts from contacting Agent to [redacted] Obviously, considering the nature and relationship of the parties involved, the specific manner in which this is handled is, to a necessary degree, left to the discretion of [redacted] [redacted] requiring "on the spot" decisions and immediate evaluation of the situation as it arises.

Informant at this time is particularly hopeful as to the prospects for favorable results inasmuch as CHAMBLISS seems to be talking more [redacted]

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Based on the foregoing, it would appear that the only practical forum for prosecution of this case lies in the criminal courts of the Tenth Judicial Circuit of Alabama at Birmingham. Based on comments made by responsible members of the Bar, representatives of the news media, and the U. S. Attorney and his staff, which comments have been unsolicited and made during routine contacts, it is believed the climate of public opinion in this area is very favorable toward initiating prosecution for this bombing.

U. S. Attorney MACON L. WEAVER and his chief trial aide, Assistant U. S. Attorney R. MACEY TAYLOR, both highly competent lawyers, have expressed an interest that this case should be prosecuted, but are of the definite opinion it is primarily a murder case which should be heard in the state courts.

WEAVER and TAYLOR have indicated that an indictment charging a violation of Section 241 probably could be returned, based on testimony of the investigating Agent without the disclosure of the identities of witnesses or the necessity of key witnesses appearing before the Grand Jury. They have also indicated that a Federal Civil Rights trial for the bombing, following the return of an indictment, would be a useless endeavor and would seriously jeopardize the success of a murder prosecution. A possible course of action that should be considered would be the perfection of arrangements with local authorities in order that a murder indictment could be returned as nearly simultaneously as possible with the return of a Federal indictment, which would serve as the basis for FBI arrests, in addition to insuring State prosecution for murder, whereby the production and identification of witnesses at a preliminary hearing would not be required. In this case, USA WEAVER has characterized EARL MORGAN, Solicitor of the Tenth Judicial

BH 157-352

Circuit, as a very competent prosecutor, a cooperative, trustworthy and responsible public official, who has been known to Mr. WEAVER for a number of years, and who has expressed the desire to WEAVER to bring the bombers to trial. Mr. WEAVER has advised that MORGAN would conduct a diligent and highly professional prosecution in this matter.

For information of the Bureau, neither this case nor any aspects of the investigation, including the evidence available, the identity of witnesses and its prosecutive merits, has been discussed with the U. S. Attorney, the comments referred to above having been made spontaneously by the U. S. Attorney, with the exception of the expression of opinion regarding any indictment being returned based on hearsay evidence, which comment was made in response to an inquiry by Agent to whom this case is assigned.

The Bureau may desire to give advance consideration to the possibility of arranging local prosecution only, to the exclusion of a prior Federal indictment, bearing in mind the possible unfavorable impression this would have on the jury. This would eliminate the tendency of the public to consider this as Federal "pre-emption" of what many of the local populace (from which the jury would be drawn) sincerely believe to be a murder case.

It is believed that delay in prosecution, progressively continued, progressively decreases the chances of effective prosecution of this case. The various considerations must be weighed and a balance struck between the above course of action and the probability that further evidence in the form of admissions or confessions may be obtained.

In evaluating and analyzing the future prospects of this case, it would be helpful to ascertain whether a local murder indictment can be obtained based on investigative Agents' testimony, precluding the necessity of the appearance of key, and to this point confidential, witnesses.

Based on the above summary evaluation and analysis of this case, the Birmingham Office recommends the following course of action:

BH 157-352

(1) A conference be held between USA MACON L. WEAVER, AUSA R. MACEY TAYLOR, SAC EVERETT J. INGRAM, INSPECTOR [REDACTED] and SA [REDACTED] to whom instant matter is assigned, in order to arrive at a firm understanding as to the prosecutive merits of this case and to discuss the most favorable alternative courses of action. At this point, it is not contemplated that the identity of key witnesses and informants would be disclosed.

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(2) Following this, and with Bureau approval, a conference would be held attended by the above representatives of the U. S. Attorney's Office and the Birmingham FBI Office with EARL MORGAN, Solicitor, Tenth Judicial Circuit, to obtain his views as to the prosecutive merits of this case in the local courts.

It is not intended, nor is it contemplated, that the FBI will make any commitments as to any course of prosecutive action, nor will the specific evidence thus far developed, or identities of witnesses, be made available outside the FBI. However, it would be of benefit to have the opinion of Mr. TAYLOR and Mr. MORGAN, experienced prosecutors, as to the quantum of proof required to sustain a successful prosecution, in order that accurate evaluation of evidence yet needed be arrived at, and to insure appropriate direction of remaining investigation.

The above is submitted for consideration by the Bureau. No action in this regard is being taken by the Birmingham Office.

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ADDENDUM:
Inspector [REDACTED]

I have carefully reviewed the contents of the above letter and the recommendations. Furthermore, I have reviewed pertinent sections of the BAPBOMB Investigation, and based on this review, concur with the analysis and recommendations set forth above.

5/19/65

Airtel

1 - Mr. Stewart

Copies made by *CT*
for review by Rowe Task Force
Date *2-15-79*

D

To: SAC, Birmingham (157-352)

From: Director, FBI (157-1025) - *1411*

BAPBOMB

Reurlet 5/13/65.

From an evaluation of the evidence received thusfar in this investigation, the chance of successful prosecution in State or Federal Court is very remote. In view of this, the Bureau disapproves at this time of the conferences you recommended with U. S. Attorney and Solicitor for the 10th Judicial Circuit in Alabama.

This matter should receive continuous aggressive action and all investigative avenues pursued in an effort to obtain sufficient evidence so that successful prosecution can be secured.

JTS/nkr
(4)

NOTE: Birmingham suggests conferences with the U. S. Attorney and the local solicitor in regards to prosecution of the prime suspects in this matter either in Federal or State Court. If tried in Federal Court, it would be under Title 18, U. S. Code, Section 241 (Civil Rights Statute) and in local court the trial would be on a charge of murder. The only information received indicating the prime suspects are responsible for the bombing is information received from two informants concerning isolated statements made by different suspects which would indicate their participation in the bombing. It is not felt that we have nearly enough evidence to entertain prosecution at this time.

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(Mount Clipping in Space Below)

Title: BAPBOM

Character:

or

Classification: BH 157-352

Submitting Office: BH

Feds in bomb case — probe doubt Hoover blocked prosecution

BY DAVID KEPPLER

News staff writer

The phone rang in the Birmingham office of Assistant U.S. Attorney Melton L. Alexander about 9:45 this morning. The man on the other end, named John, was calling from the Justice Department in Washington.

"How the hell did that report get out?" Alexander asked the caller, referring to a Justice Department study which reportedly says the late FBI director J. Edgar Hoover put brakes on prosecuting suspects in the 1963 Sixteenth Street Baptist Church bombing in Birmingham. Four young black girls were killed in the blast.

According to a report in *The New York Times*, Hoover ordered information on the bombing case kept from the Justice Department.

As an FBI agent, Alexander supervised the investigation of the bombing from late 1964 through 1966.

Moments later in the conversation, Alexander told his caller: "That's one reason I have to respect old Hoover. He always said don't tell anybody anything they ain't got to know — because he could foresee this (widespread publicity.)"

Alexander, who is chief of the criminal division of the Birmingham U.S. Attorney's Office, says he hasn't seen a copy of the controversial Justice Department report. Asked if it was in the possession of anyone in Birmingham, he said, "No, not to my knowledge." Asked if officials know where the story had been leaked, he said, "That's what they'd like to know," apparently referring to the Justice Department.

ALEXANDER SAID he doesn't believe Hoover tried to block prosecution of suspects in the bombing case.

In the spring of 1965, Alexander recalled, he recommended to his superiors in Washington that the "prosecuting potential" of the bombing case be "discussed." It wasn't a call for prosecution, he stresses, but merely a request that the "future outlook" of the case be studied.

The reply from Washington, according to Alexander: "It was too premature. It wasn't ready to be discussed. . . ." and that the decision would be made in Washington.

Alexander said that considering the magnitude of the case and its national significance, it wasn't at all unusual for Washington to make the final decision on whether to prosecute.

Alexander was asked if he believed the FBI headquarters' response to his recommendation to be valid.

"Yes, it was valid," he answered. "I disagreed with it, but it was valid."

The former FBI man said he disagreed with the decision because he believed "the prosecutive potential should have been discussed — I didn't say we should try to get an indictment right away." But at that point the FBI's case was still rather shaky, which is why Alexander said he believes the Washington response was valid.

"The case depended on whether informants were willing for their identities to be disclosed," Alexander said. "At that time, they weren't."

"Whether the case would have been prosecutable then (in 1965) is questionable" even if the informants had agreed to go public, Alexander said. Of the "literally dozens" of informants the FBI had on the bombing case, only "one or two" had "good information," Alexander said.

He emphasized that even after his request to discuss the potential for prosecution was turned down, "the investigation went right on." No attempt was made by officials in Washington to curb the scope of the investigation, Alexander said.

MACON WEAVER, U.S. Attorney in Birmingham at the time of the bombing investigation and now a private attorney in Huntsville, said today he doubts Hoover could have blocked evidence going to the Justice Department.

Weaver said the FBI and the Justice Department in 1963 "really didn't trust each other" and so the Justice Department had its own investigators in Birmingham in addition to the FBI men. Weaver said FBI reports went directly from FBI agents in Birmingham to Justice Department officials in the city.

"Many FBI reports never made it to the Washington (FBI) office," Weaver said. "They (the Justice Department) called the shots."

Memorandum

TO : Mr. Mullen

DATE: 2/28/80

FROM : J. C. Lawn

SUBJECT: ALLEGED LEAK OF DEPARTMENT OF JUSTICE
TASK FORCE REPORT ON GARY THOMAS ROWE

Exec AD-Adm.	
Exec AD-Inv.	
Exec AD-LES	
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Director's Sec'y	

FBI/DOJ

PURPOSE: To advise that the Department of Justice (DOJ) has initiated investigation of the unauthorized disclosure of the Department's Rowe Task Force Report and to recommend that the FBI hold any investigation of this disclosure in abeyance.

RECOMMENDATION: That no investigation be conducted by the FBI into the alleged unauthorized disclosure of the Department's Rowe Task Force Report, in view of the fact that the Public Integrity Section, Criminal Division, DOJ, has initiated an investigation based upon the written recommendation of Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility, DOJ.

APPROVED: *[Signature]*

Director *[Signature]*
 Exec. AD-Inv. *[Signature]*
 Exec. AD-Adm. *[Signature]*
 Exec. AD-LES *[Signature]*

Adm. Serv. *[Signature]*
 Crim. Inv. *[Signature]*
 Ident. *[Signature]*
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 Public Affs. Off. *[Signature]*

Enclosure *Handled sep.*JCL:bam (9) *bam*

- 1 - Mr. Colwell
- 1 - Mr. Bailey
- 1 - Mr. Mintz
- 1 - Mr. Otto (ATTN:)
- 1 - Mr. Mullen
- 1 - Mr. Monroe
- 1 - Mr. Mignosa
- 1 - Mr. Lawn

DETAILS - OVER

4-1 1980

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64 APR 1 1980

FBI/DOJ

Memorandum from J. C. Lawn to Mr. Mullen
RE: ALLEGED LEAK OF DEPARTMENT OF JUSTICE
TASK FORCE REPORT ON GARY THOMAS ROWE

DETAILS: By routing slip from the Office of the Director, the Criminal Investigative Division (CID) was advised to "please handle" investigation of the alleged leak of the classified DOJ Rowe Task Force Report, as outlined in the Shaheen to Mr. Heymann memorandum dated February 19, 1980, and captioned "Request for Criminal Investigation of Unauthorized Disclosure of Rowe Task Force Report" (attached) *attached handled sep.*

Mr. Shaheen's memorandum to the Assistant Attorney General, Criminal Division, requested that the Criminal Division, DOJ, initiate a criminal investigation of the apparent unauthorized disclosure of information which appeared in two "New York Times" articles dated February 17 and February 18, 1980.

On 2/27/80, Section Chief John C. Lawn, CID, telephonically contacted Mr. Shaheen and was advised that Mr. Heymann had assigned personnel of the Public Integrity Section, Criminal Division, DOJ, to investigate this apparent unauthorized disclosure, which appeared to come from within the Department of Justice.

In view of the fact that the Criminal Division of the Department has initiated an investigation into this alleged unauthorized disclosure, CID recommends that no investigation be initiated by the FBI at this time.

AIRTEL

4/8/80

To: SAC, WFO

PERSONAL ATTENTION
ASAC MAURICE J. STACK, JR.

From: Director, FBI

GARY THOMAS ROWE, JR.
DEPARTMENT OF JUSTICE
TASK FORCE REPORT
LEAK TO PRESS;
PRIVACY ACT;
PERSONNEL MATTER

1 - Mr. Lawn
1 - Mr. Clark
1 -

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ReButelcal to ASAC Maurice J. Stack, Jr., 4/8/80.

By memorandum to the Criminal Division, dated February 19, 1980, Michael Shaheen, Jr., Counsel, Office of Professional Responsibility (OPR), noted that on February 17 and 18, 1980, "The New York Times" carried front-page stories written by its Birmingham, Alabama, based correspondent, Howell Raines, describing and discussing the contents of a report prepared by a Department of Justice Task Force investigating Gary Thomas Rowe, Jr. The Task Force, composed of Department of Justice attorneys and supervised by OPR, had been investigating alleged criminal conduct by Rowe during the mid-sixties while he was also an FBI informant on the Ku Klux Klan activities in Birmingham, Alabama. The report included summaries of testimony given before Federal Grand Jury, as well as information which, because it could lead to their identification, threatened the safety of other FBI informants and their families.

Despite a Departmental decision to delay release of the report in any form, at least until state criminal proceedings against Rowe arising from the

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VDK:bam (6)

SEE NOTE PAGE TWO...

APR 9 1980

PERS. REC. UNIT

FBI/DOJ

Airtel to SAC, WFO
RE: GARY THOMAS ROWE, JR.

murder of civil rights worker Viola Liuzzo could be resolved, the Birmingham Office of "The New York Times" apparently received a copy of that report. The identity of the source of the report, the means by which it was disseminated to "The Times" and the circumstances prompting the unauthorized disclosure are unknown.

Because of the content of the report, such unauthorized disclosure raises strong possibilities of violations not only of the Privacy Act, 5 U.S.C. § 552(a)(1)(1), but also Rule 6(e), Federal Rules of Criminal Procedure. WFO is requested to provide 2 mature, experienced Agents to be assigned this matter. The 2 Agents should make arrangements to contact SA [redacted] Room 3050, Extension [redacted] of the JEH Building, on or before April 15, 1980, in order that they be provided further background information and details pertaining to this investigation.

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NOTE: This airtel provides a brief background regarding the institution of investigation regarding the leak of the Department of Justice Task Force report on Gary Thomas Rowe, Jr. It additionally requests WFO to assign 2 experienced Agents to the case and to have them contact FBIHQ personnel for further background information prior to conducting any investigation.

Mr. Michael E. Shaheen, Jr., Counsel
Office of Professional Responsibility
Department of Justice

Similarly, the identities of all of the Agents involved should be protected, and your plan to label them as Special Agent A, B, C, and so forth appears to be valid, with the understanding that all appropriate steps will be taken to protect their identities in any subsequent release of the material. With this in mind, your attention is directed to those three civil suits related to this matter currently being handled by Justice Department attorneys, and it is assumed they will have an appropriate opportunity to be made aware of the Task Force's final report. This Bureau, however, has reservations that the Department will be able to protect the identities of the Agents and the informants should civil discovery action be filed based on the public version of this report.

You have asked for a second memorandum which deals with factual errors, incorrect footnotes, and so forth. Such a memorandum is enclosed with the instant communication; however, it should be understood that each footnote was not checked as to content due to personnel and time constraints involved. The enclosed memorandum does set out items of conflict and a few instances wherein the wording chosen may be revised in order to improve the Government's account.

As a result, the only other observation which would bear on the merits of the report is simply that the conflicts set out in the enclosed memorandum be thoroughly considered for the appropriate changes inasmuch as the proposed public version of the Task Force's findings will be apparently based upon this report.

The five unsigned copies remain in FBI possession and will be destroyed or returned to you upon your request.

Enclosure

NOTE: See memorandum [] to Mr. Bailey dated 7/25/79, captioned as above, prepared by DTP:amo.

APPROVED:

Director
Assoc. Dir.
Dep. AD Adm.
Dep. AD Inv.

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FEDERAL BUREAU
OF INVESTIGATION
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FM FBI WASHINGTON FIELD (187-9) (P)

TO DIRECTOR FBI ROUTINE

ATTENTION: [REDACTED] ROOM 3050, JEH

FBI JACKSON ROUTINE

BT

UNCLAS

GARY THOMAS ROWE, JR., DEPARTMENT OF JUSTICE TASK FORCE
REPORT LEAK TO PRESS; PRIVACY ACT PERSONAL MATTER
REWFOAIRTEL TO DIRECTOR AND JACKSON, MAY 29, 1980.

DI SCONTINUE. [REDACTED] PRESENTLY ATTENDING ATTORNEY

GENERAL'S ADVOCACY INSTITUTE, WASHINGTON, D. C. (WDC).

WASHINGTON FIELD WILL HANDLE INTERVIEW.

BT

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FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 6/2/80

TO: DIRECTOR, FBI (ATTN: [REDACTED] ROOM 3050, JEH)

FROM: SAC, WFO (187-9)(P) *m/m*

GARY THOMAS ROWE, JR.
 DEPARTMENT OF JUSTICE
 TASK FORCE REPORT
 LEAK TO PRESS
 PRIVACY ACT
 PERSONNEL MATTER

Re Bureau airtels to WFO dated 4/8/80 and 4/11/80.

Enclosed for Atlanta are the original and one copy of
 a Grand Jury subpoena with U.S. Department of Justice cover
 letter directed to [REDACTED]

Atlanta is requested to deliver enclosed subpoena to
 [REDACTED]

62-118023-286

22 JUN 4 1980

2- Bureau
 2- Atlanta (Enc. 4)(RM)
 1- WFO

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Approved: *m/m* 6/3/80

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UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF PROFESSIONAL RESPONSIBILITY
WASHINGTON, D.C. 20530

MAR 31 1980

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Exec. AD-LES	
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Telephone Rm.	
Director's Sec'y	

Honorable Don Edwards, Chairman
Subcommittee on Civil and
Constitutional Rights
Committee on the Judiciary
U.S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

7/1/80
THOMAS ROWE

FEDERAL GOVERNMENT

This is in response to your letter of March 14, 1980, addressed to Attorney General Civiletti, in which you requested a copy of the report prepared by the Rowe Task Force.

The report is still being reviewed within the Department and several issues affecting its release outside the Department are still being studied. Certain promises of confidentiality were necessary before some individuals would cooperate with Task Force members and those promises must be honored. Moreover, the State of Alabama's indictment of Mr. Rowe for the murder of Mrs. Viola Liuzzo is still pending and it is our opinion that any release of the report in its current form could seriously prejudice both Alabama's and Mr. Rowe's right to a fair trial.

For these and other related reasons, it is not possible for the Department to furnish to you a copy of the report in its present form at this time.

Sincerely,

Michael E. Shaheen, Jr.
Counsel

cc: William H. Webster, Director
Federal Bureau of Investigation

ENCLOSURE

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FEDERAL GOVERNMENT

The Attorney General
Attention: Mr. Clyde David Lowell

Director, FBI

ROWE TASK FORCE REPORT

1 - [redacted]
1 - Mr. Finzel
Attn: [redacted]

November 5, 1980

1 - Mr. Mullen REVEL
Attn: [redacted]
1 - Mr. Otto
1 - [redacted]
1 - Mr. Blake?
1 - [redacted]

Detached 7326

O'D Encl. 1

Reference is made to a telephone conversation between Mr. Lowell and Special Agent (SA) [redacted] of our Legal Counsel Division, relative to the October 1, 1980 Summary of the Rowe Task Force Report.

Mr. Lowell requested that we review the Rowe Summary and advise him of any concerns that we might have regarding the draft Summary. It has consistently been the view of this office that the Rowe Task Force Report is not a Bureau document and, as such, we would not be the proper party to voice an objection to its release. A similar view is held by this office regarding the Rowe Summary. However, we appreciate the opportunity to express our concerns with the present Summary Report.

The interim report of the Rowe Task Force was a raw document which contained voluminous information from our files as well as Agent and informant interviews. The Bureau cooperated fully with the Task Force in the compilation of its report. The Task Force members advised both Agents and informants when they contacted that their interviews were confidential. Although the Summary Report attempts to conceal the identities of informants and Agents relative to their testimony given to the Task Force members, the issuance of this summary in its present form would nevertheless violate those confidences in some instances.

62-118023-287

The Summary Report refers to certain Agents as direct handling Agent or last handling Agent. These descriptions identify which Agent is involved. In addition, the reference to a particular handling Agent during a particular time period.

RAM:imw
(14)

ENCLOSURE

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The Attorney General

likewise, identifies which Agent is involved. These descriptions, coupled with information provided to the Task Force members during 1979, clearly breach the promises of confidentiality made to Rowe's initial handling Agent, former SA [redacted] and Rowe's final handling Agent, SA [redacted]. Examples of this type of information are contained on pages 3, 5, 6 and 11 of the Summary Report.

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Finally, this office is concerned with the effect that the release of this Summary Report will have on pending litigation involving Mr. Rowe. The Department represents former SA [redacted] in one of these civil actions. [redacted] cooperated fully with the Task Force during its investigations of Rowe-related activities. To breach the promise of confidentiality extended to him and to make his testimony to the Task Force, in effect, a public record, could be construed as a violation of the lawyer-client relationship which has been maintained since 1977.

Therefore, we request that you review the pages of the Summary Report referred to in this letter and consider appropriate changes which would maintain the confidential aspect of the Agents' interviews. At the time of the preparation of the Rowe Report, we were given assurances by the Office of Professional Responsibility, Department of Justice, that any release to the public would not violate any confidences extended by the Task Force members. We continue to rely on that promise.

1 - Honorable John S. Martin, Jr.
United States Attorney
One St. Andrews Plaza
New York, New York 10007

Attention: Mr. Peter C. Salerno
Assistant United States Attorney

The Attorney General

- 1 - Counsel, Office of Professional Responsibility
Attention: Mr. Michael E. Shaheen, Jr.
- 1 - The Deputy Attorney General
Attention: Mr. Paul R. Michel
- 2 - Assistant Attorney General
Civil Division
Attention: Mr. Mark Kurzmahn
Mr. R. Joseph Sher

B

APPROVED:

Director _____

Exec. AD-Adm. _____

Exec. AD-Inv. _____

Exec. AD-LES _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

Training _____

Off. of Cong. _____

& Public Affs. _____

[Handwritten signatures]

Mr. Otto

SUMMARY OF RESULTS
OF THE
DEPARTMENT OF JUSTICE TASK FORCE INVESTIGATION ON
GARY THOMAS ROWE, JR.

Department of Justice

October 1, 1980

Memo from Director to AG, 11-5-80
RAM:imw

62-118023-287X
ENCLOSURE

INTRODUCTION

From 1960 to 1965, Gary Thomas Rowe, Jr. was a paid FBI informant within the ranks of the Ku Klux Klan in the Birmingham, Alabama area. During this period, there was considerable racial violence in Birmingham and the rest of the state. Federal law enforcement authorities believed that the Klan was responsible for much of this violence.

On April 13, 1960, an informant file was opened on Rowe in the FBI field office in Birmingham, and on June 23, 1960, Rowe was initiated into the Eastview Klavern 13 of the Alabama Knights, Knights of the Ku Klux Klan, Inc. Rowe reported to the FBI on Klan members and activities from this time until April 1965, when Rowe's service as an informant became public knowledge after the fatal shooting of Mrs. Viola Liuzzo.

In July 1978, reports by the New York Times and ABC television suggested that Rowe had participated in violent crimes with other Klansmen while an informant for the FBI and that the FBI was aware of his participation. The most serious of these allegations was that Rowe had fired the shot which killed Mrs. Liuzzo. On July 12, 1978, Senators Kennedy and Abourezk sent a letter to the Department stating that the Senate Judiciary Committee was interested in receiving a full report on these allegations. In September 1978, Rowe was indicted by an Alabama grand jury for the 1965 murder of Viola Liuzzo.

In October 1978, Attorney General Bell created a Task Force to investigate the Rowe matter. The Task Force investigation

focused on three issues: (1) whether the FBI's supervision of Rowe as an informant was adequate; (2) whether there was any evidence to support the allegation that Rowe was responsible for the death of Mrs. Liuzzo; and (3) whether federal prosecutors had reason to doubt Rowe's reliability and credibility as a principal witness in the federal civil rights case arising out of the Liuzzo shooting.

In the course of its investigation, the Task Force reviewed 800 volumes of FBI files, files from the Civil Rights Division, trial transcripts, and documents provided by the Senate Select Committee on Intelligence. The Task Force also conducted 64 interviews, including interviews of Rowe and each of the agents who was responsible for supervising him.

The following is a summary of the results of the Task Force's investigation.

I. ROWE'S ACTIVITIES AS AN FBI INFORMANT

The Task Force's examination of the FBI's handling of Rowe as an informant centered on the extent of Rowe's participation in Klan violence and whether the FBI had knowledge of such participation.

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[REDACTED]

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During the time that Rowe was an informant, there is no question but that the Klan and many of its members were deeply involved in racial violence. [REDACTED]

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[REDACTED]

[REDACTED] However, in 1975 before the Senate Select Committee and in his 1979 interview with the Task Force, Rowe stated that during this early period he was actively involved in violent incidents, including beatings relating to the integration of Birmingham department stores and buses, [REDACTED]

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[REDACTED]

One of these two incidents is that concerning violence at the Trailways bus station in 1961, which is discussed in detail below. The other involved an attempted Klan attack on an elderly white couple who were raising a black child. Rowe told the Task Force that during this incident he had tried to throw a sheet over the man's head, but FBI documents from the time reveal no such active involvement by Rowe.



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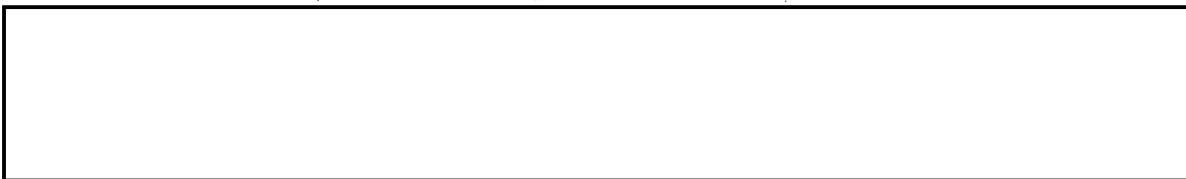
Rowe did report to the FBI Klan plans to attack persons attempting to integrate stores and buses, but there was no evidence discovered that would substantiate Rowe's current claims that he participated in such attacks. Instead, FBI files indicate that the plans were never carried out, and that in one instance Rowe actually discouraged the use of violence at a meeting at which these plans were discussed.

In sum, with the exception of the Trailways bus station incident discussed below, the Task Force found no evidence to corroborate Rowe's recent claims that he actively participated in acts of criminal violence for the Klan in this early period and reported them to his handling agent.

The Trailways Bus Station Incident

The Task Force conducted an extensive investigation of Rowe's role in the violence which occurred at the Trailways bus station in Birmingham when CORE freedom riders arrived on May 14, 1961. The evidence examined by the Task Force supports

Rowe's recent claims that he was more deeply involved in the violence than FBI files of the period would indicate.



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On May 12, 1961, Rowe reported to his handling agent Klan plans to attack the CORE freedom riders when they arrived at the bus station on the 14th. The FBI in turn related this information to local authorities. Rowe also reported that he was to act as one of five "squad leaders" at the depot. The "squad leaders" were not to participate in the planned violence at the station, but were to follow the CORE leaders and attack them later. The information Rowe provided was transmitted to FBI Headquarters.

On the 14th, a brawl broke out as the CORE group approached a "white only" waiting room at the station. Several people were injured in the melee. The beating of one victim who was not a member of the CORE group, [redacted] was photographed by [redacted] and published on the front page of that newspaper. The FBI's copy of the photograph, which was used extensively in the FBI's investigations of the Trailways bus incident, bears notations on the back indicating that it was Rowe who identified three of the men in the picture. In addition, a May 1961 FBI memorandum establishes that Rowe's handling agent at that time had discussed the photograph with Rowe. When interviewed by the Task Force, both Rowe and his handling agent

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were able to identify the large man in the photograph with his back to the camera and holding the victim as Rowe. Yet, Rowe's handling agent stated to the Task Force that he could not recall whether he had discussed the photograph with Rowe at the time, and he could offer no explanation why Rowe was not identified on the back of the photo as were the others.

Rowe's appearance in the Post-Herald photograph, and statements of witnesses to the incident in reference to the photograph, link Rowe not only to the beating of [] but also to the subsequent beating of [] and the harassment of [] at the scene, [] was also harassed, and several days after the incident Rowe told his handling agent that he had smashed the window of [] car.

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A May 16th field office teletype to FBI Headquarters reported that Rowe had advised that he was not personally involved in the violence at the station, that he peacefully obtained film from [] and that he had participated in the [] incident, but had not struck []

Thus, while the Post-Herald photograph links Rowe to the [] beatings, Rowe's handling agent was able to identify Rowe in the photograph in 1979, and a memorandum by the handling agent establishes that he discussed the photograph with Rowe soon after the incident, there is no FBI record of Rowe having been identified as one of the men in the photograph or as a possible participant in the [] beatings.

Rowe's Activities From May 1961 Through June 1963

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The Task Force examined four events from this period on which Rowe reported. Two concerned incidents occurring at a Bessemer, Alabama carnival and at a restaurant at which Rowe now claims he participated in assaults on several people. FBI files from the period do not corroborate Rowe's present characterization of extensive involvement in these incidents. However, Rowe did make a report to his handling agent six weeks after the carnival incident indicating that he had been present. The handling agent's recollection of this incident is vague, but he stated in his Task Force interview that he believed that Rowe had told him at the time that he was not personally involved in the fighting that took place.

The two remaining events concerned instances in which Rowe's reports to the FBI of planned Klan violence likely prevented racial violence.

One of these incidents involved a planned assassination of a civil rights leader in 1962. Klan members of the Eastview Klavern learned that on July 21 Reverend Fred L. Shuttlesworth was going to a restaurant in Birmingham's airport to test a desegregation order. These Klan members conducted a meeting, which Rowe attended, in which they discussed how to disrupt Reverend Shuttlesworth's arrival, including a plan to murder him.

Records reviewed by the Task Force reveal that Rowe tried to dissuade the group from its plans and then, when he was unsuccessful, let the FBI know of the scheme. The FBI, in turn, contacted local police and Reverend Shuttlesworth. Reverend Shuttlesworth indicated that his trip was planned for July 30, not July 21. While Klan members, including Rowe, went to the airport on July 21, increased police protection prevented them from taking any action. The appearance of the additional police provided Klan members, some of whom already suspected Rowe, with another indication that someone in their group had talked to the police.

The 1963 Birmingham Bombings

In 1963, there were several bombings in the Birmingham area. Most of these were considered by law enforcement officials to be the work of the Ku Klux Klan, and the FBI conducted massive investigations of these incidents at the time they occurred.

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On September 8, 1963, the home of [] was firebombed. In a 1977 interview with Alabama officials and in his 1979 interview with the Task Force, Rowe stated that he had been present at the bombing and that he reported this to the FBI at the time. The Task Force examined the information provided to the FBI about the bombings, and in its review, found no record or indication of Rowe ever having been present at this bombing, of his reporting it to the FBI or of the FBI ever having suspected that Rowe was involved.

On September 15, 1963, an explosion at the 16th Street Baptist Church killed four black girls and injured nineteen

other people. The FBI questioned Rowe several times about the 16th Street Church bombing at the time, but he provided little information. In 1979, however, Rowe told the Task Force that he reported to his handling agent having seen two men, one of whom was Robert Chambliss, near the church on the night of September 13th, two days before the bombing. The Task Force discovered no evidence to substantiate Rowe's 1979 claims of having sighted Chambliss near the church and having reported this to the FBI, and its examination of FBI files and interviews with the agents who investigated the bombing produced no evidence that linked Rowe to the church bombing or suggested that Rowe was considered a suspect. [On the basis of other information, the FBI, shortly after the bombing, identified Chambliss as one of several suspects in the incident. In 1977, Robert Chambliss was convicted of the murder of the four girls killed in the 1963 church bombing.]

On September 25, 1965, two bombs exploded on Center Street, a black neighborhood in Birmingham. Rowe was near the site of these bombings and was actually on the telephone reporting the first explosion to his handling agent when the second explosion occurred. Rowe explained that he was present in the vicinity because he was taking [REDACTED]

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[REDACTED]
home. The next day, Rowe's handling agent called Rowe to question him about the bombings and asked specifically about Robert Chambliss. At that time, records show that Rowe responded that he had no information linking Chambliss to this or any other of the bombings of the period.

Seven months later in May 1964, when being interviewed again by the FBI about the Birmingham bombings, Rowe stated that he had heard Chambliss discussing the use of the shrapnel bombs, such as the one used in the Center Street bombing, three days before the church bombing and thirteen days before the Center Street bombing. There is no record that Rowe reported this information to the FBI at an earlier time. To the contrary, his earlier reports were that he had no information implicating Chambliss in any of the bombings.

Thus, the information Rowe gave the FBI about the 1963 bombings was quite limited. When interviewed by the Task Force, the agents involved in the bombing investigations stated that Rowe was not regarded as a suspect in any of the bombings. Other than Rowe's own statements in 1977 and 1979 regarding his presence at the [] bombing, there was no evidence discovered that indicated that Rowe had participated in any of these incidents.

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The Shooting Of An Unidentified Black Man

In July 1978, a report appeared in the New York Times that Rowe had shot an unidentified black man in the summer of 1963. In his 1979 Task Force interview, Rowe confirmed this report, stating that he had shot a black man who was part of a crowd that attacked his car. He could not recall exactly when the shooting occurred. Rowe also told the Task Force that he had reported the shooting []

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The Task Force related Rowe's account of the shooting to two of Rowe's handling agents, both of whom replied that Rowe had never mentioned the alleged shooting. However, another [redacted] of Rowe's handling agents stated in his Task Force interview that Rowe had related an account of such a shooting to him several times, probably in the summer of 1965 when Rowe was no longer acting as an informant. This agent also recalled having discussed the story with another person who believed that the man allegedly shot had been treated at a Birmingham clinic.

At the request of the Task Force, [redacted] [redacted] reviewed autopsy reports from the period and could find no homicide which would correspond to the account given by Rowe. The coroner's records, however, would not contain information about a non-fatal shooting.

No information relating to this shooting was found in a review of FBI files. Thus, while Rowe's last handling agent's recollection of 1965 discussions of the shooting gives some credence to Rowe's account, there is no evidence to support Rowe's claim that the shooting occurred or that he reported the shooting to the FBI when it occurred. ?

Rowe's Activities From January 1964 To March 1965

[redacted]
[redacted]
In at least three instances, [redacted] reported Rowe's involvement in incidents which Rowe himself did not

report. These included information that had Rowe assaulted several blacks at a baseball game (Rowe characterized this incident in his Task Force interview as not being "Klan business" and thus not subject to inclusion in his reports to his handling agent), raised money for the purchase of weapons, and struck a reporter at an Atlanta segregationists' rally (Rowe denied this in his Task Force interview).

In March 1964, Rowe reported that he had been designated as the leader of an "action squad" (violence squad). [redacted]

[redacted] Rowe did withdraw as squad leader, but was permitted, with the knowledge of Headquarters, to remain as a member of the squad. [redacted]

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Rowe was elected Klokan Chief of the Eastview Klavern in December 1964. The Klokan Committee was responsible for Klan security. [redacted] told Rowe's handling agent that in 1964 all plans for violence had been approved by this committee. Rowe's handling agent did not believe the informant's assessment of the nature of the committee. There is no reliable information indicating that the committee had such a function at the time Rowe was its Chief.

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Conclusion: Was The FBI's Supervision Of Rowe Adequate?

Rowe recently has alleged that he participated in numerous acts of violence while an FBI informant and that he kept the FBI fully informed of these activities. The evidence examined by the Task Force indicates that this allegation is exaggerated. It appears that Rowe's handling agent knew or should have known that Rowe was a likely participant in the beatings at the Trailways bus station in 1961, and that in three other instances, reports of Rowe's involvement in assaults were brought to the attention of his handling agents. However, no evidence was discovered to corroborate Rowe's allegations that he contemporaneously reported to his handling agents his having shot an unidentified black man and having been present at one of the 1963 Birmingham bombings. As stated previously, records do indicate that Rowe actually helped prevent Klan violence on more than one occasion.

There was, however, no evidence that the FBI condoned or encouraged violent acts by Rowe.

II. THE KILLING OF VIOLA LIUZZO

At approximately 8:00 p.m. on March 25, 1965, Mrs. Viola Liuzzo was shot and killed while driving with [] on U.S. Highway 80 between Selma and Montgomery, Alabama. Mrs. Liuzzo had attended a civil rights rally at the state capitol in Montgomery that day which was the culmination of a march from Selma to Montgomery. After the rally, Mrs. Liuzzo, accompanied by [] had driven other participants in the day's activities to the Montgomery airport and Selma. Mrs. Liuzzo and [] were returning to Montgomery when she was shot.

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Undisputed Facts

The following facts about the Liuzzo killing are not in dispute. The fatal shot was fired from a car owned and driven by [] Gary Thomas Rowe, [] [] and William O. Eaton were passengers in [] car at the time of the shooting. FBI laboratory analysis established that the murder weapon was Thomas' .38 caliber pistol.

The four men left Bessemer, Alabama in the morning of March 25 to go to Montgomery where the civil rights demonstration was to take place. [] and Eaton were members of the Bessemer Klavern and [] the state Klan organization. Rowe had known the three from previous Klan activities.

After spending the day in Montgomery, the four left for Selma in the late afternoon. In Selma, Mrs. Liuzzo stopped at

a red light next to the [] car. The four men followed the Liuzzo car out of Selma for 25 miles on Highway 80. At about 8:00 p.m., the [] car passed the Liuzzo car on the left and one of the passengers fired a .38 pistol into the Liuzzo car several times. One of these shots struck and killed Mrs. Liuzzo. Another passenger fired shots from a smaller caliber weapon which struck the Liuzzo car but did not hit either Liuzzo or []

After the shooting, the four men returned to Bessemer by way of Montgomery, splitting up at approximately 11:00 that night. Rowe immediately contacted his handling agent and told the agent that he had information about an attempted shooting. The two met in a parking lot and discussed the shooting for approximately two hours. Rowe returned to his home between 2:00 and 3:00 in the morning of March 26.

At approximately 6:00 a.m. on the 26th, Rowe was picked up by his handling agent and taken to the Birmingham field office where he was questioned by several agents about the shooting. At noon on the 26th, FBI Headquarters authorized the Birmingham field office to arrest [] Eaton, and Rowe. The four were arraigned that day on federal charges. On April 6, 1965, a federal grand jury indicted [] and Eaton for conspiracy to violate the civil rights of Viola Liuzzo (18 U.S.C. § 241). On April 20, 1965, an Alabama state grand jury indicted [] for the murder of Mrs. Liuzzo. [] first trial for the state murder

charge ended on May 7, 1965 with the declaration of a mistrial. On October 22, 1965 [] was acquitted in the second state trial. [] was also tried in Alabama court for the Liuzzo murder and found not guilty in September 1966. Rowe testified at both [] trials.

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In December 1965, a federal jury found [] and Eaton guilty of the federal civil rights charges. Rowe was a principal witness at this trial. Each of the defendants was given a ten-year sentence.

The Fifth Circuit affirmed [] convictions in 1967. (Eaton had died in 1966.) The Supreme Court denied their petitions for writs of certiorari.

In September 1978, Rowe was indicted by an Alabama grand jury for the Liuzzo murder. He has not yet gone to trial on this charge.

The Dispute Over Who Fired The Fatal Shot

The central issue currently in dispute regarding the Liuzzo murder is who fired the fatal shot. Although it is clear that [] pistol was the murder weapon, there has never been an allegation nor any evidence to suggest that [] who was driving, fired his pistol into the Liuzzo car. Rowe, [] all agree that Eaton fired into the Liuzzo car, but that he used his own .22 caliber pistol. Therefore, the evidence supports the conclusion that the fatal shot would have to have been fired by one of the two remaining passengers, either [] or Rowe.

Rowe, since the time of the shooting, has consistently held that it was [] who fired [] pistol into the Liuzzo car. Prior to 1978, there is no record of either [] publicly suggesting that it was Rowe who fired [] pistol. The issue of who shot Mrs. Liuzzo was not raised by [] in their appeals or post conviction motions. In 1978, however, [] accused Rowe, in an ABC News documentary, of firing the shot which killed Mrs. Liuzzo.

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Other than the statements of Rowe, [] there is little evidence that would bear directly on a determination of who fired the murder weapon. [] the passenger in the Liuzzo car, was unable to identify any of the occupants of the car from which the shots were fired. Neither the murder weapon nor the shell casings from it found near the scene of the shooting were tested for fingerprints. The agent who seized the murder weapon from [] car stated that [] accompanied him when he made the seizure and told him that the weapon had been wiped clean. The agent's examination of the weapon at the time of the seizure led him to conclude that the pistol had been cleaned and he therefore did not request a fingerprint examination.

In 1977, [] [] stated in an interview conducted by the Birmingham police that he met Rowe shortly after the Liuzzo shooting, and

that Rowe had said "I [or we] had to smoke a whore tonight."

[] recounted essentially the same story to the Task Force and indicated that Rowe's alleged statement led him to believe that Rowe had killed the woman. Rowe does not recall ever having had such a conversation with []

In 1965, two months after the Liuzzo murder, the FBI interviewed [] on another matter. The subject of Rowe came up during this interview, but [] never mentioned the statement Rowe allegedly made to him. To the contrary,

[] praised Rowe for acting as an informant. [] has offered no explanation why [] armed with what he believed to be an "admission" by Rowe, remained silent for 12 years even though [] was twice tried for the crime which [] now states he believes Rowe may have committed.

Essentially, then, any resolution of the question of who fired the fatal shot would turn to a great extent on an assessment of the credibility of Rowe and his accounts versus the credibility of [] and their accounts.

Rowe And His Accounts Of The Liuzzo Murder

From 1965 to 1979, Rowe recounted in detail the events of March 25th eleven times. Eight of these accounts were made in 1965. Much of what Rowe has said about the Liuzzo shooting remains consistent throughout all these accounts. However, the Task Force noted certain discrepancies between Rowe's 1965 accounts and his accounts in and after 1975. Rowe now states that he observed the shots fired striking Mrs.

Liuzzo and her passenger, but his statements in 1965 indicate that he was not certain immediately after the shooting whether the shots had struck either Mrs. Liuzzo or [] Rowe told the Task Force in 1979 that the four men returned to the Liuzzo car immediately after the shooting. In 1965, however, he testified that they did not turn back. In 1965, Rowe stated that [] had obtained [] gun when the four approached a crowd of blacks near the Selma AME church. Rowe now denies that this is the point at which [] obtained [] pistol. Rowe now relates details of the four men's activities in Montgomery that day which appear in none of his earlier accounts. There are other minor discrepancies in Rowe's various statements about the details of the events of March 25th, but Rowe has consistently maintained that he did not fire at the Liuzzo car, but that [] using [] gun did.

The FBI agents and federal prosecutors who were involved in the Liuzzo case uniformly stated in Task Force interviews that they had believed Rowe and that his account of the shooting were credible. Among the factors they cited as the basis for this opinion were Rowe's former reliability as an informant, the fact that he immediately reported the shooting to his handling agent, and that his accounts of the shooting in 1965 were detailed, consistent, and in several respects corroborated by other testimony and evidence.

[redacted] And Their Accounts Of The Liuzzo Murder

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Both [redacted] asserted in their Task Force interviews that it was Rowe who first spotted Liuzzo and [redacted] that it was Rowe who announced that they were going to "get" Liuzzo and [redacted] that it was Rowe who directed the 25 mile pursuit of the Liuzzo car, and that it was Rowe who fired the [redacted] pistol into the Liuzzo car. [redacted] also told the Task Force that while in Montgomery in the afternoon of the 25th, Rowe removed [redacted] pistol from the glove compartment and replaced it with his own pistol. In 1965, however, [redacted] had told the FBI that his pistol had remained in the glove compartment the entire day. [redacted] also place Rowe in the right rear seat of the car in their Task Force interviews, yet in 1965, [redacted] told the FBI that it was [redacted] who occupied this position. [redacted] again placed [redacted] in this position in a 1979 affidavit, although later he told the Task Force that this was a mistake. (Rowe has consistently maintained that [redacted] was in the right rear seat of the car when the shots were fired.)

There are several other discrepancies between [redacted] [redacted] accounts of the events of March 25th, including how Rowe happened to accompany them to Montgomery, what was said in the car before and after the shooting, Rowe's actions toward the demonstrators in Montgomery, the sequence and number of shots fired into the Liuzzo car, where they went after the shooting, and Rowe's agreement to a secrecy pact.

The Task Force questioned [] about their failure to accuse Rowe prior to 1978. The two stated that they had not testified at trial on advice of counsel. [] recalled that their attorney reasoned that if they admitted being in the car, their chances of conviction would be increased. Their silence for the 12 years after their convictions was not adequately explained. [] stated simply that prior to 1978, no one had ever asked him who killed Mrs. Liuzzo.

Because of [] past histories of violence, their conflicting stories about the shooting, their failure to accuse Rowe prior to 1978, and the fact that they had reason to retaliate against Rowe for his testimony against them, the credibility of their recent accusation of Rowe is in question.

Conclusion: Did Rowe Shoot Viola Liuzzo?

After a thorough examination of the Liuzzo shooting, the primary evidence against Rowe remains the allegations made thirteen years after the murder by [] These two men were convicted in the federal civil rights case arising out of the Liuzzo shooting due in large part to the testimony of Rowe. Any conclusion, then, that Rowe fired the fatal shot would rest almost entirely on a favorable assessment of [] credibility. The Task Force, however, found that their credibility was very much in question.

III. THE PROSECUTION OF THE FEDERAL CIVIL RIGHTS CASE

In light of [] accusation of Rowe in 1978, the Task Force examined the extent of the information made available to the Civil Rights Division prosecution team that might have had a bearing on their assessment of Rowe's character and credibility. The Task Force also explored whether the prosecutors ever questioned the truthfulness of Rowe's testimony regarding the Trailways bus station incident and whether the FBI or the federal prosecutors suspected that Rowe may have been responsible for the death of Mrs. Liuzzo.

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The FBI provided the prosecutors of the civil rights case with voluminous materials on the Liuzzo killing and the activities of the Klan in Alabama. However, not all information from Rowe's FBI informant file or from other informant files was supplied to the prosecutors. This reluctance to make informant files fully available apparently was not unique to this case but rather reflected FBI policy at the time. Whether access to this additional information would have altered the prosecutors' assessment that Rowe was a reliable and credible witness cannot be determined now and is a matter of speculation.

In both the second [] murder trial and in the federal civil rights trial, Rowe testified that he did not appear in the Post-Herald photograph of the beating of [] [] at the Trailways bus station in 1961. Rowe now admits

that he did appear in the photograph. In his deposition for the Senate Select Committee on Intelligence in 1975, Rowe stated that FBI agents had instructed him to lie about the photograph. The agents deny this. There is no evidence that the attorneys prosecuting the civil rights case in 1965 were ever aware or suspected that Rowe was not being truthful about the photograph.

Rowe alleged during his Task Force interview similar improper coaching of his testimony regarding the identity of the passenger in the Liuzzo car. Rowe has consistently maintained that the person he saw in the car at the time of the shooting was not [] but an older, heavier man. Both the FBI agents investigating the case and the federal prosecutors were fully aware of Rowe's doubts about []. In 1979, Rowe stated that the prosecutors advised him to testify that he saw [] in the car. The Task Force found no evidence to support this allegation. To the contrary, documents from the period establish that Assistant Attorney General Doar of the Civil Rights Division met with Rowe and advised him to respond truthfully concerning his doubts about the passenger and that Doar also wrote to Rowe prior to his testifying at the federal trial about the [] issue, and specifically instructed Rowe that, if asked, he should truthfully testify that he did not believe that [] was the man in the car. Rowe now denies having received the letter.

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When interviewed by the Task Force, the federal prosecutors and FBI agents assigned to the Liuzzo case uniformly maintained that they did not suspect Rowe of having fired the fatal

shot. They based their assessment of Rowe's credibility in part on the reliability of information formerly provided by Rowe as an informant, the fact that he immediately reported the shooting to his handling agent, the consistency and detail of his accounts of the shooting, and the fact that several aspects of his accounts were corroborated by other testimony and evidence.

Conclusion: Was There Any Impropriety In The Federal Prosecutors' Use Of Rowe As A Principal Witness In The Civil Rights Trial Of [redacted] And Eaton?

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The federal prosecutors uniformly believed that Rowe was a reliable and credible witness. It is speculative whether complete access to FBI informant files would have altered their assessment of Rowe as a witness. There was no evidence that the federal prosecutors were aware that Rowe had not testified truthfully about his being pictured in the photograph taken at the Trailways bus station, and FBI agents interviewed denied Rowe's allegation that they had instructed him to lie about the photograph. In addition, there was evidence directly contradicting Rowe's allegation that the federal prosecutors had advised him to lie about his belief that the passenger in the Liuzzo car was not [redacted]

abuses the professional relationship between lawyer and client. On the other hand, adequate compensation is necessary in order to enable the lawyer to serve his client effectively and to preserve the integrity and independence of the profession.

EC 2-18 The determination of the reasonableness of a fee requires consideration of all relevant circumstances and a lawyer should not enter into an agreement, or charge, or collect an illegal or clearly excessive fee. A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee are the following:

(1) The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;

(2) The likelihood, which should be made apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) The fee customarily charged in the locality for similar legal services;

(4) The amount involved and the results obtained;

(5) The time limitations imposed by the client or by the circumstances;

(6) The nature and length of the professional relationship with the client;

(7) The experience, reputation and ability of the lawyer or lawyers performing the services;

(8) The responsibility, financial or otherwise, assumed by the lawyer; and

(9) Whether the fee is fixed or contingent.

A lawyer should not enter into an arrangement for, charge or collect a contingent fee for representing a defendant in a criminal case. It is commendable and a long-standing tradition in the bar that special consideration is given in the fixing of any fee for services rendered another lawyer or a member of the immediate family.

ployment. The fulfillment of this objective requires acceptance by a lawyer of his share of tendered employment which may be unattractive both to him and the bar generally.

EC 2-27 History is replete with instances of distinguished and sacrificial services by lawyers who have represented unpopular clients and causes. Regardless of his personal feelings, a lawyer should not decline representation because a client or a cause is unpopular or community reaction is adverse.

EC 2-28 The personal preference of a lawyer to avoid adversary alignment against judges, other lawyers, public officials, or influential members of the community does not justify his rejection of tendered employment.

EC 2-29 When a lawyer is appointed by a court or requested by a bar association to undertake representation of a person unable to obtain counsel, whether for financial or other reasons, he should not seek to be excused from undertaking the representation except for compelling reasons. Compelling reasons do not include such factors as the repugnance of the subject matter of the proceeding, the identity or position of a person involved in the case, the belief of the lawyer that the defendant in a criminal proceeding is guilty, or the belief of the lawyer regarding the merits of the civil case. No attorney appointed to represent an indigent defendant shall condition his willingness to represent said defendant, or to expend his best efforts in such representation, on the payment of a fee by the defendant, or those persons interested in him. If it shall appear to the attorney that the person whom he is appointed to represent actually is capable of paying an attorney's fee, the appointing court should be made aware of such fact. It is not unethical for an appointed attorney to receive a fee voluntarily paid by the defendant, or persons interested in him; but any appointed attorney receiving such payment shall forthwith advise the appointing court of such fact.

EC 2-30 Employment should not be accepted by a lawyer if he knows or it is obvious that the person seeking to employ him desires to institute or maintain an action merely for the purpose of harassing or maliciously injuring another, or if he is required to present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by a good faith

investigation of possible unfairness, the same considerations are applicable to each group for which the study is made. See § 12b(7).

(l) Unfairness of selection procedure (differential prediction): A condition in which members of one racial, ethnic, or sex group characteristically obtain lower scores on a selection procedure than members of another group, and the differences are not reflected in differences in measures of job performance. See § 12b(7).

(m) User: Any employer, labor organization, employment agency, or licensing or certification board, to the extent it may be covered by Federal equal employment opportunity law which uses a selection procedure as a basis for any employment decision. Whenever an employer, labor organization, or employment agency is required by law to restrict recruitment for any occupation to those applicants who have met licensing or certification requirements, the licensing or certifying authority to the extent it may be covered by Federal equal employment opportunity law will be considered the user with respect to those licensing or certification requirements. Whenever a state employment agency or service does no more than administer or monitor a procedure as permitted by Department of Labor regulations, and does so without making referrals or taking any other action on the basis of the results, the state employment agency will not be deemed to be a user.

[Order No. 668-76, 41 FR 51735, Nov. 23, 1976]

§ 50.15 Representation of Federal employees by Department of Justice Attorneys or by private counsel furnished by the Department in state criminal proceedings and in civil proceedings and Congressional proceedings in which Federal employees are sued or subpoenaed in their individual capacities.

(a) Under the procedures set forth below, a federal employee (herein defined to include former employees) may be represented by Justice Department attorneys in state criminal proceedings and in civil and Congressional proceedings in which he is sued or subpoenaed in his individual capacities, not covered by § 15.1 of this chapter.

(1) When an employee believes he is entitled to representation by the Department of Justice in a proceeding, he must submit a request for that representation, together with all process and pleadings served upon him, to his immediate supervisor or whomever is designated by the head of his department or agency, forthwith. The employee's employing federal agency shall submit to the Civil Division in a timely manner a statement, with all supporting data, as to whether the employee was acting within the scope of his employment, together with its recommendation as to whether representation should be provided. The communication between the employee and any individual acting as an attorney at his employing agency, with regard to the request for representation, shall be treated as subject to the attorney-client privilege. In emergency situations the Civil Division may initiate conditional representation after communication by telephone with the employing agency. In such cases, appropriate written data must be subsequently provided.

(2) Upon receipt of the agency's notification of request for counsel, the Civil Division will determine whether the employee's actions reasonably appear to have been performed within the scope of his employment, and whether providing representation is in the interest of the United States. If a negative determination is made, Civil Division will inform the agency and/or the employee that no representation will be provided.

(3) Where there appears to exist the possibility of a federal criminal investigation or indictment relating to the same subject matter for which representation is sought, the Civil Division will contact a designated official in the Criminal Division for a determination whether the employee is either a target of a federal criminal investigation or a defendant in a federal criminal case. An employee is the target of an investigation if, in addition to being circumstantially implicated by having the appropriate responsibilities at the appropriate time, there is some evidence of his specific participation in a crime. In appropriate instances, Civil Rights and Tax Divisions and any

other prosecutive authority within the Department should be consulted for a similar determination.

(4) If the Criminal, Civil, Tax Division or other prosecutive authority within the Department thereafter "prosecuting division" determines that the employee is a target of a criminal investigation concerning the act or acts for which representation is sought, the prosecuting division in which there is an ongoing investigation into a matter other than the one for which representation is requested, then representation shall be provided.

(5) If the prosecuting division determines that the employee is a target of a criminal investigation for the act or acts for which representation is sought, Civil Division will determine whether representation of the employee that no representation will be provided. If the prosecuting division indicates that the employee is a target of an investigation for the act or acts for which representation is sought, but no decision has been made, a private attorney may be provided to the employee at the expense of the employee under the provisions of § 50.16.

(6) If conflicts exist between legal or factual positions of employees in the same case, it is inappropriate for one attorney to represent the employees. Employees may be separated into groups as is necessary to avoid conflict problem and each group may be provided with separate representation. Some situations may be such that private representation is advisable that private representation be provided to all conflict groups that Justice Department attorneys withheld so as not to create particular defendants. In such cases, the procedures of § 50.16 shall apply.

(7) Once undertaken under this subsection, representation shall continue until either all appropriate proceedings, including appropriate procedures, have ended or the employee withdraws from representation. If it is found to exist, includ-

other prosecutive authority within the Department should be contacted for a similar determination.

(4) If the Criminal, Civil Rights or Tax Division or other prosecutive authority within the Department (hereinafter "prosecuting division") indicates that the employee is not the target of a criminal investigation concerning the act or acts for which he seeks representation, then representation may be provided. Similarly, if the prosecuting division indicates that there is an ongoing investigation, but into a matter other than that for which representation has been requested, then representation may be provided.

(5) If the prosecuting division indicates that the employee is the target of a criminal investigation concerning the act or acts for which he seeks representation, Civil Division will inform the employee that no representation by Justice Department attorneys will be provided. If the prosecuting division indicates that the employee is a target of an investigation concerning the act or acts for which he seeks representation, but no decision to seek an indictment or issue an information has been made, a private attorney may be provided to the employee at federal expense under the procedures of § 50.16.

(6) If conflicts exist between the legal or factual positions of various employees in the same case which make it inappropriate for a single attorney to represent them all, the employees may be separated into as many groups as is necessary to resolve the conflict problem and each group may be provided with separate representation. Some situations may make it advisable that private representation be provided to all conflicting groups and that Justice Department attorneys be withheld so as not to prejudice particular defendants. In such situations, the procedures of § 50.16 will apply.

(7) Once undertaken, representation under this subsection will continue until either all appropriate proceedings, including applicable appellate procedures, have ended, or until any of the foregoing bases for declining or withdrawing from representation is found to exist, including without limi-

tation the basis that representation is not in the interest of the United States. In any of the latter events, the representing Department attorney on the case will seek to withdraw but will ensure to the maximum extent possible that the employee is not prejudiced thereby.

(8) Justice Department attorneys who represent employees under this section undertake a full and traditional attorney-client relationship with the employees with respect to the attorney-client privilege. If representation is discontinued for any reason, any incriminating information gained by the attorney in the course of representing the employee continues to be subject to the attorney-client privilege. All legal arguments appropriate to the employees's case will be made unless they conflict with governmental positions. Where adequate representation requires the making of a legal argument which conflicts with a governmental position, the Department attorney shall so advise the employee.

(b) Representation by Department of Justice attorneys is not available to a federal employee whenever:

(1) The representation requested is in connection with a federal criminal proceeding in which the employee is a defendant;

(2) The employee is a target of a federal criminal investigation on the same subject matter;

(3) The act or acts with regard to which the employee desires representation do not reasonably appear to have been performed within the scope of his employment with the federal government; or

(4) It is otherwise determined by the Department that it is not in the interest of the United States to represent the employee.

[Order No. 683-77, 42 FR 5695, Jan. 31, 1977]

§ 50.16 Representation of Federal employees by private counsel at Federal expense.

(a) Representation by private counsel at federal expense may be provided to a federal employee only in the instances described in § 50.15 (a)(5) and (a)(6).